

Mississippi River/Gulf of Mexico Action Plan (4503F)
C/O U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

RE: Notice of Availability and Request for Comment on Draft Plan of Action for Reducing, Mitigating, and Controlling Hypoxia in the Northern Gulf of Mexico

Dear Sir or Madam:

The National Association of State Conservation Agencies (NASCA) hereby submits its' comments regarding the referenced notice. NASCA is a voluntary, nonpartisan organization of 55 state executive agencies responsible for the administration of soil, water, and related natural resource programs. NASCA agencies generally administer the agricultural nonpoint source programs in their respective jurisdictions. As such, we have a direct interest in both the original analysis and resulting Action Plan to protect the Gulf of Mexico.

These comments will be separated into two parts. The first set of comments reflects upon the scientific analysis employed to characterize the problems and consequences of seasonal hypoxia in the Northern Gulf of Mexico. The second set of comments relates directly to the Action Plan.

Comments on the Mississippi River/ Gulf of Mexico Hypoxia Scientific Analysis

NASCA is very concerned that the scientific basis for the Action Plan has been narrowly focused, has selectively used scientific data, and cites selected interpretations of its' six peer-reviewed scientific reports in order to draw its' conclusions. Specifically, NASCA cites the following concerns:

1. The results of the Flux and Sources of Nutrients Report (Topic 3), as conducted by USGS, are taken from an incomplete database with minimal urban data. As a result, rural (i.e. agricultural) data are emphasized which creates an innate data bias. Offers from several states in the basin to augment this data were rejected by USGS either due to compatibility, quality concerns, or timeliness. The Assessment Report was based upon incomplete data and its' conclusions are suspect.
2. Specific scientific evidence of hypoxia has only been established since the late 1980s. Data on hypoxia continues to show significant fluctuations both in areal and volumetric extent with a high occurring after the large floods of 1993. As a result, there are numerous unanswered questions regarding the long-term history of occurrence of hypoxic events in the Gulf, and the response of the fisheries to those conditions.
3. The Ecologic and Economic Consequences Report (Topic 2) establishes that there has been no statistical decline in commercial fishery harvests during the period since the late 1980s. Since it is generally accepted that conditions of hypoxia occur in all major water bodies, the absolute need to implement a comprehensive Action Plan to address hypoxia only has not yet been established. There must be a direct connection established to protect or improve the fishery to gain public acceptance of any Action Plan.
4. The Effects of Reducing Nutrient Loads Report (Topic 4) concludes, in part that "... the rivers in the MRB generally meet ambient water quality standards for substances affected by nutrient loadings and concentration (i.e. dissolved oxygen, pH, nitrate, and un-ionized ammonia). On this basis, it is reasonable to conclude that reductions in nutrient loadings to the rivers will not improve compliance with the standards for these water quality variables." NASCA concludes that the hypoxic conditions of the Gulf of Mexico are far more complex than has analyzed and reported to date. If the quoted statement is interpreted to suggest that increased nutrient loadings are more the result of rainfall/runoff events than ambient conditions, then this would seem to also imply that further study of river flow and impoundment management, and nutrient-enriched sediment storage is needed.

5. Reductions as high as 40% could reduce the extent of hypoxia, but again the Assessment Reports can not verify that there will be a statistical improvement in the fisheries.

NASCA concludes, on the basis of the scientific evidence presented to date that the Northern Gulf of Mexico is a system in some degree of seasonal stress, but that the stressors are not well understood. The target fisheries continue to produce normal harvests even with increased fishing pressure. Any Action Plan to control hypoxia based upon this research must balance the complete range of human and natural influences throughout the Mississippi River Basin (MRB) beyond the narrow focus on nutrients to be successful in both improving water quality and protecting the fishery.

Comments on the Action Plan

Due to the concerns that have been expressed above, NASCA takes the position that this Action Plan, considering its' devastating impact on agriculture and unknown costs or benefits, is premature. Other concerns for the Action Plan are as follows:

1. Experience demonstrates that the Action Plan must be built from the local and state government level in order to gain the public acceptance necessary for implementation. All states in the MRB drainage administer on-going nonpoint source control programs, yet none of this on-going activity was solicited for use in either the analysis or Action Plan. During the course of the Integrated Assessment, both Illinois and Iowa offered detailed descriptions of their activities in nonpoint source controls to establish the true scope of what the reports may suggest as solutions. This information has neither been referenced nor acknowledged in the Action Plan.
2. A central failing of the final Action Plan is its isolation from other, more immediate concerns at the state and local level. States are presently fully focused, often as a result of court orders, on the assessment and implementation of TMDL plans. Since very few states have nutrient water quality standards, this massive, long-term effort is separate from the issues addressed in the Action Plan. Likewise this applies to state efforts to address AFO/CAFO concerns in accordance with new federal regulations and guidance. The Action Plan makes no attempt to integrate these programs and their limited resources.
3. The Action Plan offers several end-goals for nitrogen reduction, but never relates those reductions to improvements in the fishery. The cost to implement this Plan is unstated but assumed to be substantial. NASCA believes that the public will not support this program with the present uncertainty of both costs and benefits without further substantial justification.
4. At the most recent meeting of the Nutrient Task Force in St. Louis in June, speakers were brought in from The Chesapeake Bay Program to address the concept of a nutrient target. These programs are characterized by several substantial differences. The Bay Program has benefited from its governance agreement where all participants are equal partners, the presence of documented fishery concerns, and more comprehensive science to date. The Bay Program determined that it needed to accelerate activities in the tributaries to clean up the mainstem. The Bay Program recognized that the Atlantic Ocean "feeds" the Bay even when internal sources are reduced, which greatly complicates modeling procedures. Finally, the Bay Program recognized that both nitrogen and phosphorous need to be controlled in an estuarine system. Each of these lessons, along with others, applies to the Gulf Program, and should be considered in this Action Plan before it is finalized.
5. Costs remain both undefined and uncommitted from the federal government.

In conclusion, although much progress has been made in the overall understanding and characterization of the hypoxia phenomenon in the Gulf, it is much too early to finalize and implement this Action Plan. The scientific connections between nitrogen, hypoxia, and fishery management need to improve. A critical look at numerous other complicating influences in this system is also important to fully understand the system. The role of state and local governments needs to be clarified through a comprehensive governance agreement. Only then can a truly integrated and effective Action Plan be produced that can be implemented with confidence.

Thank you for the opportunity to comment on this Action Plan. Please contact Jim Cox at (804) 443-1527 with any questions.